



ALABAMA DEPARTMENT OF REVENUE
SALES, USE & BUSINESS TAX DIVISION
TOBACCO TAX SECTION

TOB: NPM-ESC INST
7/03

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Instructions for Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment

General Information:

What is the definition of a tobacco product manufacturer?

- Any entity that manufactures cigarettes, including roll-your-own, anywhere that such manufacturer intends to be sold in the United States including cigarettes that are intended to be sold in the United States through an importer;
- The first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or
- A successor of any entity described above.

Who is required to file this certificate of compliance?

- Any tobacco product manufacturer which:
 - (1) sells cigarettes within the State of Alabama (whether directly or through any distributor, retailer, or similar intermediary) and
 - (2) has not become a participating manufacturer in the tobacco Master Settlement Agreement executed on 11/23/98 (the MSA).

If you satisfy these requirements, you must file this certificate of compliance to report the units of cigarettes manufactured by you and sold in the State of Alabama and pay the amount calculated into your qualified escrow fund.

What is a non-participating manufacturer?

A non-participating manufacturer is any tobacco product manufacturer who has not signed onto the MSA.

What is a qualified escrow fund?

A non-participating manufacturer that is required to file this certificate of compliance must establish a qualified escrow fund. This means an escrow arrangement with a U.S. federal or U.S. state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000, where such arrangement (1) requires that the financial institution hold the escrowed funds' principal for the benefit of the State of Alabama (and possibly other "Releasing Parties" as defined in the MSA) and (2) prohibits the non-participating manufacturer from using, accessing, or directing the use of the funds' principal except as consistent with Title 6, Chapter 12, Section 2, Code of Alabama 1975.

When is this certificate of compliance due?

This certificate of compliance is to be filed on or before April 30th of the year following the sales year.

For 1999, the sales year for tobacco products sold in Alabama is June 9, 1999 – December 31, 1999. After 1999, the sales year is the calendar year, from January 1 through December 31.

When must I make my escrow payment?

You must deposit all escrow payments into your qualified escrow fund on or before April 15th of the year following the sales year. After you have made your deposit, forward a copy of your receipt or other proof of deposit from your financial institution to the Commissioner of the Alabama Department of Revenue, along with this signed and notarized certificate of compliance. In addition, after you have made your initial deposit into the qualified escrow fund, forward a copy of the escrow agreement as executed. Finally, forward any amendments to the escrow agreement.

Specific Instructions:

Part 1: Manufacturer's Identification: Write your name, address, telephone number and fax number.

Part 2: Sales Year: Write the sales year.

Part 3: Units Sold: Write the number of individual cigarettes and the amount of "roll-your-own" tobacco (.09 ounces constitutes one cigarette) manufactured by you and sold during the sales year in Alabama.

Part 4: Escrow Rates and Payments: Multiply the units sold by the appropriate rate for the sales year and write the result as your subtotal. Calculate the appropriate inflation adjustment and enter the amount. Add the subtotal and the inflation adjustment amount to arrive at the total deposit to be paid into your qualified escrow account for the applicable sales year.

Part 5: Financial Institution: Write the name and address of the financial institution holding your escrow account. Include your escrow account number. Also write the total cumulative amount currently in your escrow account for the benefit of Alabama.

Part 6: Signature: An authorized notary public must also sign and date this certificate of compliance.